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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,973	12/09/2003	William Y. Sun		2202

7590 06/07/2006
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EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT PAPER NUMBER

3739

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/729,973
Filing Date: December 09, 2003
Appellant(s): SUN, WILLIAM Y.

MAILED
JUN 07 2006
GROUP 3700

Clyde I. Coughenour
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/9/06 appealing from the Office action
mailed 2/22/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The publication to or brochure of Panduit (1999, 2 pages)

Definition of pressure-sensitive adhesive by GLOBALSPEC, The Engineering Search Engine (1 page).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by the Panduit Publication (1999).

In regard to claim 1, The Panduit publication teaches a plate having a top surface, a bottom surface, a forward end, a rear end, a first side, a second side and a central area, a foam support having a top surface and a bottom surface where the top surface is attached to the plate's bottom surface, a bottom surface and an adhesive having a top surface attached to and extending along the foam support bottom surface (see pages 1 and 2 of the Panduit publication). The device as disclosed by Panduit is capable of attachment to a laryngoscope blade. **In regard to claim 8**, page 2 of the Panduit publication shows a liner for covering the adhesive.

(10) Response to Argument

In response to applicant's arguments, the recitation "tongue stabilizing plate for a laryngoscope blade" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Applicant states that Panduit fails to disclose a "tongue-engaging plate" which is required by claim 1 of the instant invention. However, Panduit clearly shows several embodiments of plates that are to have adhesive tape placed on the bottom surface (Applicant's own admission, pg. 9, Lines 13-14 of Appeal brief). Thus, as broadly as claimed, Panduit discloses a tongue-engaging plate, as the top surfaces of the plates are fully capable of engaging a tongue. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the top surfaces of these plates are not capable of supporting a tongue) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant states that Panduit fails to disclose "a foam strip support...top surface attached to said tongue-engaging plate bottom surface" which is required by claim 1 of the instant invention. However, Panduit shows two types of double-coated polymeric foam adhesive tape which extend on the bottom surface of the smooth-surface engaging plates (see figures on page 2). As broadly as claimed, Panduit discloses a foam strip support wherein the top surface is attached to the bottom surface of the tongue-engaging plate.

Applicant states that Panduit fails to disclose "a pressure sensitive adhesive having...a bottom surface available for attaching said tongue stabilizer to a laryngoscope blade" which is required by claim 1 of the instant invention. However,

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Panduit clearly discloses the use of pressure sensitive adhesive (foam tape) mounts (see Page 2, Paragraph 1, Line 1). As seen in the figures on page 2, thumb pressure must be applied for at least 5 seconds to properly adhere the pressure sensitive (foam tape) mount to a smooth surface. Thus as broadly as claimed, Panduit discloses a pressure sensitive adhesive which is *available* for attachment to a laryngoscope blade.

Applicant states that examiner has failed to make out a *prima facie* case and the rejection is obviously a hindsight rejection. The applicant further states that the examiner's personal opinions were used to make the rejection. However, no modifications to the Panduit reference were made since the reference, as disclosed, *anticipates* all claim limitations of claim 1 of the instant invention. No claim wording has been ignored.

As broadly as claimed, the Panduit reference is a definite reference which has sufficient disclosure, which teaches of a tongue-engaging plate, a foam strip support and a pressure-sensitive adhesive. Panduit shows several embodiments of plates, capable of engaging a tongue, that are to have pressure-sensitive adhesive tape placed on a bottom surface and which are fully capable of being attached to a laryngoscope blade.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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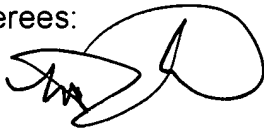
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

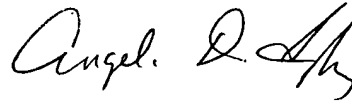
A handwritten signature in black ink, appearing to read 'M. Kasztejna', with a date '5/26/16' written below it.

Matthew J. Kasztejna
Examiner, Art Unit 3739

Conferees:

A handwritten signature in black ink, appearing to read 'L. Dvorak', with a date '5/26/16' written below it.

LINDA C. M. DVORAK
SUPERVISORY PATENT EXAMINER
GROUP 3700

A handwritten signature in black ink, appearing to read 'Angela D. Sykes'.

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
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